

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventors: Nikola Kirilov Kasabov, Matthias Erwin
Futschik, Michael James Sullivan, Anthony
Edmund Reeve

Appln. No.: 10/524,754

Confirm. No.: 6902

Filed: February 15, 2005

Title: MEDICAL DECISION SUPPORT SYSTEMS
UTILIZING GENE EXPRESSION AND
CLINICAL INFORMATION AND METHOD FOR
USE

PATENT APPLICATION

Art Unit: Unassigned

Examiner: Unassigned

Customer No. 23910

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on August 25, 2005.

Thomas A. Ward (Attorney Signature)
Thomas A. Ward, Reg. 35,732
Signature Date: August 25, 2005

**RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN
THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US), dated June 27, 2005, enclosed are the following documents in connection with the above-identified application:

- ☒ Copy of NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US).
- ☒ Declaration for Patent Application

✓

Copy of PTO-1390 form filed February 15, 2005, showing evidence of authorization of payment, including payment for one additional independent claim.

Small Entity Statement

✓

Applicant(s) qualify for small entity status under 37 C.F.R. § 1.27.

Total Fee

The Total Fee associated with this communication has been calculated as shown below:

—	Patent application filing fee	\$
—	Net fee for extension of time	\$
—	Assignment recording fee (\$40.00)	\$
✓	Surcharge under 37 C.F.R. §1.16(e) for late filing of filing fee or Declaration:	
—	Small Entity \$ 65.00	\$65.00
TOTAL FEE DUE:		<u>\$65.00</u>

Breakdown of Total Fees Due

The Notification of Missing Requirements states that applicant owes a fee due of \$100.00 for the cost of one additional Independent claim. However, applicant authorized the USPTO to charge \$100.00 for the additional independent claim when we filed the case on February 15, 2005. Please see the attached copy of the original Form PTO-1390. Applicant believes there maybe a mistake in that applicant should be charged a surcharge of \$65.00 for filing the Declaration late, but not a \$100.00 charge for the additional claim. If applicant is mistaken, please charge the fees due to our deposit account 06-1325.

Method of Payment of Fees

The Commissioner is hereby authorized to charge any deficiencies or credit overpayment to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

09/02/2005 ATRAM1 00000118 061325 10524754

01 FC:2617 65.00 DA

Respectfully submitted,

Date: 8/25/04

By: Thomas A. Ward
Thomas A. Ward, Reg. 35,732

Customer No. 23910
FLIESLER MEYER LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone (415) 362-3800

**TRANSMITTAL LETTER TO THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)
CONCERNING A FILING UNDER 35 U.S.C. 371**

ATTORNEY'S DOCKET NUMBER
PEBL-01001US1 DBB

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)
Unknown

INTERNATIONAL APPLICATION NO.
PCT/US2003/025563

INTERNATIONAL FILING DATE
15 August 2003 (15.08.03)

PRIORITY DATE CLAIMED
15 August 2002 (15.08.02)

TITLE OF INVENTION **MEDICAL DECISION SUPPORT SYSTEMS UTILIZING GENE EXPRESSION AND
CLINICAL INFORMATION AND METHOD FOR USE**

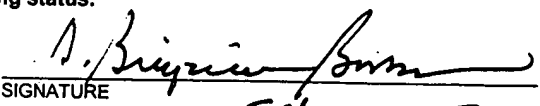
APPLICANT(S) FOR DO/EO/US **KASABOV, Nikola, Kirilov *et al.***

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a **FIRST** submission of items concerning a submission under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3. ☒ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.
4. ☒ The US has been elected (Article 31).
5. ☒ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
 - a. ☐ is attached hereto (required only if not communicated by the International Bureau).
 - b. ☐ has been communicated by the International Bureau.
 - c. ☒ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
 - a. ☐ is attached hereto.
 - b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☒ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
 - a. ☐ are attached hereto (required only if not communicated by the International Bureau).
 - b. ☐ have been communicated by the International Bureau.
 - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
 - d. ☒ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☐ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11 to 20 below concern document(s) or information included:

11. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☐ A preliminary amendment.
14. ☒ An Application Data Sheet under 37 CFR 1.76.
15. ☐ A substitute specification.
16. ☐ A power of attorney and/or change of address letter.
17. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13~~ter~~.2 and 37 CFR 1.821 – 1.825.
18. ☐ A second copy of the published international application under 35 U.S.C. 154(d)(4).
19. ☐ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).
20. ☒ Other items or information: **Express Mail No. 385 255 863 US mailed on February 15, 2005; Return Postcard.**

U.S. APPLICATION NO. (if known, see 37 CFR 1.5) Unknown		INTERNATIONAL APPLICATION NO. PCT/US2003/025563		ATTORNEY'S DOCKET NUMBER PEBL-01001US1 DBB	
The following fees have been submitted:				CALCULATIONS	PTO USE ONLY
21. <input checked="" type="checkbox"/> Basic national fee \$300				\$300.00	
22. <input checked="" type="checkbox"/> Examination fee If International preliminary examination report prepared by USPTO and all claims satisfy provisions of PCT Article 33(1)-(4)..... \$100 All other situations \$200				\$200.00	
23. <input checked="" type="checkbox"/> Search fee Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority..... \$100 International Search Report prepared and provided to the Office \$400 All other situations \$500				\$100.00	
TOTAL OF 21, 22 and 23 =				\$600.00	
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing or computer program listing filed in an electronic medium). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.					
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole number)	RATE		
33 - 100 = 0	0 / 50 =	0	x \$250	\$0	
Surcharge of \$130.00 for furnishing the oath or declaration later than 30 months from the earliest claimed priority date (37 CFR 1.492(h)).				\$	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE	\$	
Total claims	7 - 20 =	0	x \$ 50	\$0	
Independent claims	4 - 3 =	1	x \$200	\$200.00	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$360	\$	
TOTAL OF ABOVE CALCULATIONS =				\$800.00	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by 1/2.				\$	
SUBTOTAL =				\$400.00	
Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).				+	\$
TOTAL NATIONAL FEE =				\$400.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property				+	\$
TOTAL FEES ENCLOSED =				\$400.00	
09/02/2005 ATRAN1 00000118 061325 10524754 02 FC:2814 100.00 DA				Amount to be refunded:	\$
				Amount to be charged:	\$400.00
a. <input type="checkbox"/> A check in the amount of \$ _____ to cover the above fees is enclosed. b. <input checked="" type="checkbox"/> Please charge my Deposit Account No. <u>06-1325</u> in the amount of \$ <u>400.00</u> to cover the above fees. A duplicate copy of this sheet is enclosed. c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. <u>06-1325</u> . A duplicate copy of this sheet is enclosed. d. <input type="checkbox"/> Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.					
NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b) must be filed and granted to restore the International Application to pending status.					
SEND ALL CORRESPONDENCE TO: D. Benjamin Borson, Ph.D. Fliesler Meyer LLP Four Embarcadero Center, Fourth Floor San Francisco, CA 94111 415.362-3800					
				 SIGNATURE Feb. 15, 2005 D. Benjamin Borson NAME 42,349 REGISTRATION NUMBER	



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

U.S. APPLICATION NUMBER NO. 10/524,754	FIRST NAMED APPLICANT Nikola Kirilov Kasabov	ATTY. DOCKET NO. PEBL-01001US1 DBB
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INTERNATIONAL APPLICATION NO. PCT/US03/25563

LA. FILING DATE 08/15/2003	PRIORITY DATE 08/15/2002
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D Benjamin Borson
Flesler Meyer
Four Embarcadero Center
South Floor
San Francisco, CA 94111

CONFIRMATION NO. 6902

371 FORMALITIES LETTER



OC000000016383504

Date Mailed: 06/27/2005

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Indication of Small Entity Status
- Copy of the International Application filed on 02/15/2005
- Copy of the International Search Report filed on 02/15/2005
- Request for Immediate Examination filed on 02/15/2005
- U.S. Basic National Fees filed on 02/15/2005
- Priority Documents filed on 02/15/2005

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Additional claim fees of \$100 as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.
- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date.

SUMMARY OF FEES DUE:

Total additional fees required for this application is \$100 for a Small Entity:

- Total additional claim fee(s) for this application is \$ 100

Flesler, Meyer LLP

File: PEBL-01001US1Action Item: Missing Pct FeeDate Due: August 27, 2005Critical Date: December 27, 2005Attorney Path: DBBEntered By: Prov. DK12

Verified By: _____

- \$100 for 1 independent claims over 3.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

PAULETTE R KIDWELL

Telephone: (703) 308-9140 EXT 216

PART 2 - OFFICE COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/524,754	PCT/US03/25563	PEBL-01001US1 DBB

FORM PCT/DO/EO/905 (371 Formalities Notice)